

IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE: §
§
QUALITY INFUSION CARE, INC. § CASE NO. 10-36675-H4-11
§ CHAPTER 11
§
DEBTOR §
§

**OPPOSITION OF GREEN BANK, N.A. TO EXPEDITED MOTION OF BRADFORD N.
OESCH FOR RELIEF FROM THE AUTOMATIC STAY TO PROCEED WITH
ARBITRATION AGAINST THE DEBTOR**

Green Bank, N.A. (“Green”), a secured creditor and party in interest, hereby submits this Opposition to Expedited Motion of Bradford N. Oesch for Relief from the Automatic Stay to Proceed with Arbitration Against the Debtor (the “Motion”) and in support hereof states as follows:

I. RESPONSE TO NUMBERED PARAGRAPHS

1. Admitted.
2. Admitted.
3. Unable to admit or deny.
4. Green admits that the purported Settlement Agreement is attached as Exhibit A but is otherwise unable to admit or deny the allegations in this paragraph.

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11. Admitted.

12. Admitted.

13. Admitted.

14. Denied

15. Green submits that this paragraph contains statements of law to which no response is required.

16. Green submits that this paragraph contains statements of law to which no response is required.

17. The first sentence of this paragraph contains statements of law to which no response is required. Green denies the remainder of this paragraph.

18. Denied.

19. Denied.

20. Denied.

21. Unable to admit or deny.

22. Unable to admit or deny.

23. Denied.

II. ADDITIONAL RESPONSE

24. It is clear from the Motion and the exhibits attached thereto that Movant is pursuing claims over which this Court has exclusive jurisdiction and/or pursuing claims which are property of the estate.

25. For example, Movant alleges that “the Rutherfords have exploited the Debtor’s assets for their own personal use”. *See Motion ¶ 8.* If there is a claim against the Rutherfords for denuding the debtor or converting debtor’s assets to personal use, such claim is property of the estate. Any determination of such claim should be made by this Court for the benefit of all creditors. Similarly, if the Rutherfords have used debtor’s funds to form other businesses at the expense of the debtor, these claims are also property of the estate. Movant also alleges claims for breach of fiduciary duty, aiding and abetting, conversion and constructive fraud – all of which are likely property of the estate. In fact, it is not clear that Movant has any standing to pursue these claims.

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27. Finally, Movant asserts rights in certain automobiles owned by the debtor. One of these, a 2008 Mercedes, is subject to Green’s perfected purchase money security interest. Competing claims over estate property are uniquely within the province of this Court.

WHEREFORE, Green respectfully requests that the Motion be denied and that the Court grant Green such other and further relief to which Green may be entitled.

Respectfully submitted,
BROWN MCCARROLL, L.L.P.
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By:/s/ Michael P. Ridulfo
Michael P. Ridulfo
Texas Bar No. 16902020
ATTORNEY FOR GREEN BANK, N.A.

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of August, 2010, a true and correct copy of the foregoing pleading was served to all parties requesting notice via the Court's CM/ECF notification system and by regular first class mail on the parties listed below.

Chris S. Tillmanns
Tony L. Visage
Bradley J. Benoit
Bracewell & Giuliani LLP
711 Louisiana, Suite 2300
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Counsel for Bradford N. Oesch

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6300 Richmond Avenue, Suite 333
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Debtor

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